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# Supreme Court of the United States.

OCTOBER TERM, 1973.

No. 73-1191.

JOSEPH M. HOURIHAN,
PETITIONER,

*v.*

HAROLD DAKIN ET AL.,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT.

## Petitioner's Reply to Brief in Opposition.

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## Petitioner's Reply to Brief in Opposition.

I pray this Court to grant me my Constitutional Rights to a trial because I was denied a trial by the Courts in Massachusetts.

As I have stated in my appeal I am forced to be author of my complaint, solely because I am unable to receive any help from any source whatsoever.

Since I am pro se, I pray this Court to grant me a trial and permit me to prove at oral argument I have been an innocent victim of invidious discrimination for a period of time in excess of twenty years.

I filed a writ for certiorari on November 27, 1973. It was returned to me by letter from Mr. Edward C. Schade on November 30, 1973, in which it states, "I am enclosing a

sample typewritten petition for writ of certiorari." My petition for the writ did conform to said Rule 47 quoted by Mr. Schade.

The letter from Mr. Schade continues, "The specific reasons for the return of your application for writ of habeas corpus addressed to Mr. Justice Brennan can be found in Rule 31 or Title 28 U.S.C. Section 2242." Rule 31 relates to procedure on application for extraordinary writs.

I fail to understand what relevance Rule 31 had to my writ for certiorari. Or why the writ had been returned.

I had filed a motion with the Court to proceed upon original papers without having to file another brief and an appendix. The motion was answered by a letter from Mr. Edward Schade on November 23, 1973. Said letter states, "I return your application addressed to Mr. Justice Brennan, your attention is directed to Rules 37 and 49 of the enclosed Rules of this Court; also to Rule 47 . . . concerned with the submission of typewritten papers."

Again I was forced to waste most valuable time in researching laws most irrelevant to my case in a law library. Rule 37 quoted by Mr. Schade relates to any record transmitted to this Court shall contain any document, paper, testimony, or other proceeding in a foreign language. Again I fail to see the relevance to my case.

Rule 49 states Custody of Prisoners in Habeas Corpus Proceedings. Once again I fail to see the relevance other than to cause me needless waste of valuable time in research.

Rule 47 relates to form of typewritten papers, Mr. Schade gave me a false impression by quoting Rule 47. When in his letter to me dated November 30, 1973, Mr. Schade enclosed a typewritten petition for certiorari. I filed my typewritten petition for certiorari on December 11, 1973. It was more readable than the sample writ sent to me by Mr. Schade.

My writ could have been accepted and if I was not the author I firmly believe it would have been. Had it been deemed necessary to cut my writ down it could have been done with no disturbance to the typed matter.

I filed a second application to proceed upon the original record. My application was again denied by a letter from Mr. Schade on December 4, 1973. The confusion herein was caused by Mr. Schade refusing to inform me the first instance as to what the reason was for the denial.

I was of the opinion when I had filed two defective timely writs for certiorari. The fact they were filed as timely would be sufficient reason for the Court to grant my writ. When the Court returned my writ on November 30, 1973, it had taken thirteen days for this letter to reach me. It had been sent air-mail. I should not be penalized by having my writ denied because of the timely factor.

In accordance with Supreme Court Practice Sec. 67(h) I hereby submit the following facts to pray this Court to grant my writ.

I did engage the Thayer Dearing Company of 354 Congress Street, Boston, Mass. Mr. Dable had after a long interview with me on the merits of my case agreed to print it. He had assured me over a period of twelve days the writ was almost printed. One day I went to the company and the office manager informed me the company lawyer stated this court would throw my writ out if I did not eliminate the case number and also pages 3, 4, 5, and 6 of my writ. I of course refused and then the writ was given back to me.

Next I engaged Buck Printing Company of 145 Ipswich Street, Boston, Mass. Mr. John Longo also had me explain the merits of my case. He requested a $100.00 retainer fee and he agreed to print my writ. After two weeks I had made numerous phone calls to Mr. Longo, he kept

giving me false promises as to the fact my writ was almost completed. I went one day to ascertain how much actually he had printed, to my dismay the production manager, Mr. James Cavanaugh, informed me the company was going to retype my writ. Then I would have to pay for the typing at sixteen dollars a page and then I would have to find a printer that would print it for me. I informed Mr. Cavanaugh I thought he was stalling me so I would miss the deadline for filing the writ. I informed him if such was the case I would make mention of this fact in my motion to this Court.

Therefore, I do not think the fact these two printers caused me to waste much of my valuable time by a conspiracy to bring about the final denial of the writ should work to deny me a trial.

The Solicitor General I do not believe has the right to attempt to deny me my writ even if what he states is true as to my writ being filed as untimely. Rule 24(1) of this Court states the respondent shall have thirty days after receipt of the petition within which to file his opposing brief. Since I was never notified the time limit had been enlarged by the Court, I fail to understand why the clerk has permitted the Solicitor General to file his memorandum in forty-five days.

In accordance with Rule 24.3, I fail to see why this procedure was not followed in my case at the expiration of the thirty days. I have been existing in a fool's paradise ever since the thirty days elapsed. I must become immune to turn-down after turn-down by the Courts. It is apparent to me the Solicitor General has grasped the last remaining straw to defeat me. Justice now hinges on my getting my reply to the brief in opposition to the Court within the ten days alloted me by Mr. Rodak, Jr., as a result of my telephone call on Monday, March 25, 1974.

In accordance with Sec. 6.9, I fail to understand why the clerk failed to notify me before docketing my case. At least if this courtesy had been extended me I could have saved myself the cost of printing.

Therefore I once again pray this Court to show compassion to me, by granting me the writ so that I shall not have been denied my Constitutional right to a trial in any Court.

JOSEPH M. HOURIHAN, PRO SE.

JMH/hh